

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 99-825

Petition of the Office of the Public Advocate  
To Initiate an Investigation of the Appropriate  
Disposition of Additional Federal Universal  
Service Funds

STIPULATION

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As a consequence of the Federal Communications Commission's Ninth Report and Order on Universal Service,<sup>1</sup> non-rural local exchange carriers in Maine stand to receive approximately \$10.2 million in explicit interstate support this year for the promotion of universal service objectives under Section 254 of the Telecommunications Act of 1996. The FCC indicated that such explicit interstate support replaces the support that non-rural carriers currently receive from the operation of the existing interstate high-cost fund.<sup>2</sup> The FCC then directed, as a condition to receiving interstate high-cost funds, that states certify to the FCC that the explicit interstate support received by non-rural carriers will be employed for the purposes specified in the TelAct.

In December, the Commission's Hearing Examiner directed parties with an interest in the issue to meet to discuss various ways the Commission might certify Bell Atlantic-Maine's use of the explicit interstate support.<sup>3</sup> Besides BA-ME and the OPA, other parties exhibiting an interest in the issues raised in the Public Advocate's petition include the Telephone Association of Maine, the State Planning Office, and Fairpoint Communications (a CLEC).

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<sup>1</sup> In the Matter of Federal-State Joint Board on Universal Service, NINTH REPORT & ORDER AND EIGHTEENTH ORDER ON RECONSIDERATION, CC Docket No. 96-45, released November 2, 1999, FCC 99-306 (hereinafter "USF Order").

<sup>2</sup> USF Order at ¶2.

During December and January, the parties met on several occasions, exchanged drafts of proposals and counterproposals, and conducted several telephone conference calls in an effort to reach a resolution of the issues raised by certification, thereby avoiding the need for a protracted Commission proceeding to develop the required state certification to the FCC.<sup>4</sup>

The parties have reached agreement on BA-ME's disposition of the Federal USF support. Using access line density as a surrogate for loop costs, BA-ME and the State Planning Office have concluded generally that through statewide rate-averaging, subscribers in BA-ME's metropolitan wire centers with lower average loop costs contribute more to the support of universal service objectives than do subscribers in non-metropolitan exchanges with higher average loop costs.<sup>5</sup> Likewise, business subscribers in metropolitan wire centers also contribute to universal service more than do residential subscribers. Accordingly, these parties recommend that BA-ME's receipt of explicit interstate high-cost support be used primarily to afford BA-ME's metropolitan basic exchange subscribers a reduction in the level of implicit support for universal service provided under current rate structures. Two tiers were created based on loop density. However, the parties agree further that all other wire centers should also receive an

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<sup>3</sup> At present, BA-ME is the only non-rural Eligible Telecommunications Carriers (ETC) eligible to receive interstate funding from this source.

<sup>4</sup> The Commission's failure to certify the application of these funds by April 1, 2000 would jeopardize Maine's receipt of any funds for the first half of 2000. If certification is not made by July 1 of this year, non-rural carriers in Maine would forfeit funds for the entire program year. (USF Order at ¶¶ 101-104).

<sup>5</sup> The parties used data on access line density by wire center (*i.e.*, the number of access lines per square mile in a given wire center) because such data serves as the best available proxy for relative loop cost by wire center. In the future, the parties hope to have a better method for estimating loop cost by wire center.

The terms "metropolitan" and "non-metropolitan" to characterize BA-ME's wire centers were employed to distinguish among BA-ME's wire centers based upon loop density, as a surrogate for comparative cost relationships across various wire centers in BA-ME's service territory in the state.

across-the-board reduction. The amount of the minimum reduction selected (\$0.23) is equal to the surcharge imposed to recover BA-ME's costs for Local Number Portability.

The parties have agreed to a credit mechanism to reduce BA-ME's monthly basic exchange rates in the following manner:

	<u>Residence Credits</u>	<u>Business Credits</u>
<u>Metro Wire Centers</u> <sup>6</sup>	\$1.40	\$5.18
<u>Second Tier Wire Centers</u> <sup>7</sup>	\$1.00	\$3.00
<u>All Other Wire Centers</u>	\$0.23	\$0.23

Other than the \$0.23 monthly credit described above to business and residence subscribers, all monthly credits are estimated amounts. The actual amount of any credit will depend upon the amount of interstate funds actually received by BA-ME annually from the interstate USF high-cost model, together with the total number of BA-ME access lines in each class of wire centers. The parties have utilized BA-ME's access line count as of December 31, 1999 to project the number of access lines in service during 2000 and have assumed that BA-ME will receive 100% of the \$10.2 million earmarked for non-rural carriers in Maine to arrive at the estimated amount of the monthly credits for subscribers in the Metropolitan and Second-tier wire centers. If the amount of the credit varies from the estimated amounts due to changes in either of these assumptions,

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<sup>6</sup> BA-ME's "Metropolitan" wire centers for residence subscribers include Portland, Old Orchard Beach, Westbrook, N. Deering, S. Portland, Bangor, Lewiston, Kennebunkport, Biddeford, and Augusta. BA-ME's "Metropolitan" exchanges for business subscribers include Portland, Old Orchard Beach, Westbrook, N. Deering, S. Portland, Bangor, Lewiston, Kennebunkport, Biddeford, Augusta, Scarborough, Brewer, Falmouth, Brunswick, Waterville and Kittery.

the parties intend that all credits (with the exception of the \$0.23 credit, which shall remain constant in 2000) be modified so as to preserve the relative proportions of the allocation of the total funds among business and residence subscribers and between Metropolitan and Second-tier wire centers. Credits will be applied to resold business and residence lines prior to the application of any wholesale discount required under TelAct Section 251(c)(4).

If the Commission completes its certification to the FCC by April 1, BA-ME will receive interstate USF funding for the first quarter of 2000 at the time it receives third quarter funding. Similarly, with certification by the state before April 1, BA-ME is scheduled to receive second quarter funds for 2000 from the FCC at the time BA-ME receives funds for the fourth quarter.

The specific details on the manner in which the Federal funds will be distributed in the states is not known at this time. It is expected that, on an ongoing basis, the FCC will disburse high cost funds monthly as it does today. However, it is not known when the ongoing disbursement from the funds (applicable to the third and fourth quarters of 2000) will commence; nor is it known how the FCC will distribute the amounts in arrears for the first and second quarter of 2000. Funds in arrears may be paid to eligible LECs monthly in addition to ongoing fund payments for the third and fourth quarter, or they may perhaps be made in a lump sum.

Notwithstanding the lack of available details on disbursement, BA-ME will initiate the monthly credit to customer bills commencing with bills issued in July, 2000 to those customers of record. Additional credits for amounts received in arrears from the

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<sup>7</sup> BA-ME's "Second-tier" wire centers for residence subscribers include Scarboro, Brewer, Falmouth, Brunswick, Waterville and Kittery and for business customers includes Rockland, Yarmouth, York, Wells,

FCC for the first and second quarters will be made to those customers of record in the third and fourth quarters of 2000 as soon as is reasonably practical (to allow time for implementation) after BA-ME's receipt of amounts in arrears for the first and second quarter.

Billing credits, rather than changes to tariffed exchange rates, have been selected for effecting the disposition of interstate USF high-cost support for two reasons. First, a credit mechanism properly reflects that the amount BA-ME actually receives in any year may vary for several reasons. Future changes in inputs to the FCC's cost model could produce different results in each year modeled. Additionally, the funds provided by the FCC are not earmarked to BA-ME but are fully portable and paid to any non-rural Eligible Telecommunications Carrier providing universal telephone service in a high-cost wire center. To the extent eligible competitive local exchange carriers (CLECs) qualify as non-rural ETCs and provide service in a targeted high-cost wire center, a portion of the interstate funds will be paid to CLECs and not to BA-ME.

A second reason for employing billing credits in the application of the intrastate funds is that the number of access lines served by BA-ME is not a static number. Over the course of the year, the number of lines will vary, producing potentially either too large or too small of a credit. BA-ME will, therefore, commence in July with the credits depicted above, track all credits made through the course of the year, and in the last month (or possibly the first or second month of the following year, depending on tracking and billing system capability) true-up both the actual interstate funds received and intrastate credits disbursed and arrive at a closing monthly credit that would net the two amounts for the program year to zero. The credit tracking and adjustment mechanism

proposed by BA-ME will be submitted to the Commission's Acting Director of Finance for review and approval.

The consensus recommendation described herein for the disposition of the first year's amount of explicit interstate high-cost support represents a negotiated compromise of the issues. Applying the funds received by BA-ME from the interstate high-cost fund towards reductions in certain intrastate rates is a disposition expressly authorized by the FCC's USF Order.<sup>8</sup> It is not the only permissible application for the funds, however, and no party endorses fully the underlying rationales of this stipulation, which supports the accommodation of competing interests forged in this compromise. Notwithstanding each party's reservations, the parties have collectively fashioned the proposed resolution as a means of developing the necessary certification in time to receive funding for the first program year. The parties reserve their right to propose and support a different means for applying USF high-cost funds if and when received in any future program year.

Accordingly, this Stipulation is entered into with the full and complete understanding of all parties that neither the specific terms nor the underlying principles embodied in this specific negotiated Stipulation shall have any precedential effect whatsoever for any future proceeding, including but not limited to any Federal or State USF disbursements relating to high-cost support for rural or non-rural ETCs.

The parties further agree that the stipulation described herein is an integrated whole, with every provision integrally related to every other provision. As such, the parties agree that rejection or revision by the Commission of any separate provision of this stipulation constitutes rejection of the entire agreement. Should the Commission fail

to approve the entire stipulation as filed by the parties, the stipulation shall be void and of no further effect. Under such circumstances, neither the stipulation nor any part thereof shall be offered or introduced as evidence in this or any other proceeding.

Accordingly, the parties signing below are in general agreement with the proposed application of interstate USF high-cost funds totaling approximately \$10.2 million for the year 2000.

Bell Atlantic-Maine

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Its Attorney

Office of the Public Advocate

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Wayne Jortner, Esq.

State Planning Office

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Evan D. Richert, Director

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<sup>8</sup> See USF Order at ¶ 96. (“[A] state could adjust intrastate rates, or otherwise direct carriers to use the federal support to replace implicit intrastate universal support to high-cost rural areas, which was formerly generated by above-cost rates in low-cost urban areas . . .”)

Telephone Association of Maine

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Benjamin Sanborn,  
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Fairpoint Communications

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James Stacy, Esq.  
Its Attorney

Dated: March \_\_, 2000